

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

AHP CONSTRUCTION, LLC)
)
Plaintiff)
)
v.)
)
GRANITE RE, INC.)
)
Defendant)
)

CASE NO.:
**NOTICE OF REMOVAL OF
ACTION PURSUANT TO 28
U.S.C. § 1441(b) DIVERSITY
BY DEFENDANT, GRANITE
RE, INC.**

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441, *et seq.*, Defendant, Granite Re, Inc. (“Granite Re”), files this Notice of Removal of this case from the Superior Court of Gwinnett County, Georgia, Case No. 22-A-10580-8, styled AHP Construction LLC v. Granite Re, Inc. (the “Gwinnett County Action”) to the United States District Court for the Northern District of Georgia, Atlanta Division. In support of this Notice of Removal, Granite Re states as follows:

CASE BACKGROUND AND FOUNDATION FOR REMOVAL

1. On or about December 13, 2022, Plaintiff, AHP Construction, LLC (“Plaintiff”), commenced the Gwinnett County Action against Granite Re. Plaintiff’s Complaint (“Complaint”) seeks judgment against Granite Re for

damages that the Plaintiff allegedly suffered as a result of Granite Re's alleged breach of performance bond.

2. Plaintiff served Granite Re with the Summons and Complaint on December 27, 2022.
3. Pursuant to 28 U.S.C. § 1446(a), Defendant has attached as Exhibit A “. . . a copy of all process, pleadings, and orders served upon such defendant. . . in such action.” True and correct copies of the Summons, Complaint and other pleadings or Orders served on Defendant are attached as Exhibit A and are incorporated herein by reference.
4. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a). Further, this matter may be removed to this Court pursuant to 28 U.S.C. § 1441 because it is a civil action that is between citizens of different states and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs.
5. Venue is proper in this Court because the Gwinnett County Action proceeding is pending in the Superior Court of Gwinnett County, Georgia, located within this District and Division. See, 28 U.S.C. § 1441(a).

COMPLETE DIVERSITY OF CITIZENSHIP

6. There is complete diversity of citizen between the parties because:

- a. The Plaintiff was at the time of the commencement of this civil action and “is a Virginia Limited Liability Company with its principal place of business located at 222 Central Park Avenue, Suite 2100, Virginia Beach, Virginia 24462.” See, Complaint, ¶ 1, attached as Exhibit A; and
- b. Granite Re is and was at the time of the commencement of this action a corporation incorporated in the State of Oklahoma with its principal place of business located at 14001 Quailbrook Drive, Oklahoma City, Oklahoma 73134.

AMOUNT IN CONTROVERSY EXCEEDS \$75,000

7. Plaintiff alleges that its damages exceed \$140,000. See, Complaint, ¶ 22, attached as Exhibit A. Therefore, based on the allegations made by Plaintiff in their Complaint, the amount in controversy exceeds \$75,000, exclusive of interest, fees, and costs.
8. Granite Re denies the allegations in the Complaint. However, taking those allegations on their face value, as this Court must do for the purposes of determining the propriety of removal, Plaintiff’s alleged claims, as evidenced by the documents attached hereto as Exhibit A, demonstrate an amount in controversy in excess of \$75,000. See, 28 U.S.C. 1446(c)(2).

OTHER ISSUES

9. This Notice of Removal is timely filed. See, 28 U.S.C. § 1446(b).
10. The instant Notice of Removal is filed less than one year after the commencement of the Gwinnett County Action. See, 28 U.S.C. § 1446(c).
11. This Notice of Removal has been served on Plaintiff's counsel. Granite Re will file a copy of this Notice of Removal in the Gwinnett County Action as soon as this Notice of Removal has been filed in this Court.
12. The undersigned counsel is unaware of any hearings set in the Gwinnett County Action from which this case is removed, and all pleadings and process filed therein are attached as Exhibit A hereto.
13. Granite Re does not waive any defenses by filing this Notice of Removal and expressly reserves any and all defenses and the right to assert such defenses. Granite Re reserves the right to amend or supplement this Notice of Removal.

CONCLUSION

This action is therefore one over which this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). Given the complete diversity of the real parties and an amount in controversy in excess of \$75,000, this Court has jurisdiction over the claims asserted in the Complaint pursuant to 28 U.S.C. § 1332, and this action is

properly removable pursuant to 28 U.S.C. § 1441(b). Granite Re is entitled to remove this case to this Court pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446.

This 25th day of January, 2023.

HERRIN & ALEXANDER, LLC

3325 Paddocks Parkway, Suite 355
Suwanee, GA 30024
Telephone: 770-662-5999
Facsimile: (770) 447-6063
E-mail: kherrin@handalawfirm.com
E-mail: jalves@handalawfirm.com

/s/ John A. Alves

Kelley Herrin
Georgia Bar No. 170658
John A. Alves
Georgia Bar No. 212739

Counsel for Defendant Granite Re, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed a copy of the within and foregoing using the Court's CM/ECF System which will automatically send email notification of such filing to all counsel of record. I have also furnished a copy of the within and foregoing by U.S. mail and by email to:

John Hinton IV, Esq.
Jonathan R. DeLuca, Esq.
Baker Donelson Bearman Caldwell & Berkowitz, PC
Monarch Plaza, Suite 1500
3414 Peachtree Road, NE
Atlanta, GA 30326
Email: jhunin@bakerdonelson.com
Email: jdeluca@bakerdonelson.com

This 25th day of January, 2023.

/s/ John A. Alves
John A. Alves
Georgia Bar No. 212739

Counsel for Defendant Granite Re, Inc.